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ATTORNEYS FOR PLAINTIFFS

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

11 **ALI SALEEM BEY and JOHN**  
12 **MUHAMMAD BEY,**  
13 Plaintiffs,  
14 vs.  
15 **CITY OF OAKLAND, et al.,**  
16 Defendants

Case No.: 14-cv-01626-JSC

DECLARATION OF PLAINTIFFS'  
COUNSEL, CHARLES A. BONNER, IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR APPOINTMENT OF A SPECIAL  
INVESTIGATOR

Hearing Date: March 30, 2018

Time: 10:00 a.m.

Courtroom: F

Location: 15th Floor

450 Golden Gate Ave.  
San Francisco, CA

Judge: The Hon. Jacqueline S. Corley

I, Charles A. Bonner, declare:

1. I am an attorney licensed to practice law in the State of California and represent the Plaintiffs in the within action, along with my co-counsel, Adam Cabral Bonner. I am duly admitted to practice law in this Court. My co-counsel and I have been counsel of record for the Plaintiffs in this case since on or about August 12, 2016.

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1       2. I have personal knowledge of the matters stated herein and would testify to the  
2 same if called to do so in a Court of law, except as to those matters which may be stated  
3 upon information and belief, and as to those matters, I am informed and believe them to be  
4 true and correct to the best of my knowledge.

5       3. I graduated from the New Collage School of Law in 1978 and was admitted to the  
6 California Bar in 1979. I have been in private practice since 1979, with an emphasis in  
7 civil litigation. A sizable portion of my practice is devoted to civil rights cases involving  
8 police practices. I have handled numerous 42 U.S.C. Section 1983 police misconduct cases  
9 during the course of my law practice, including, but not limited to, claims involving  
10 alleged police misconduct against police agencies in cities which include San Francisco,  
11 San Rafael, Novato, Oakland, Richmond, Sacramento, the CHP, and the Syracuse, NY  
12 Police Department, Fort Meyers Florida, North Carolina State Bureau of Investigation,  
13 among others. I have also represented police officers in San Francisco, including the  
14 former Chief of Police, Earl Prentice Sanders, and San Francisco Patrol Special Police  
15 Officers.

16       4. Like many of my fellow civil right attorneys, such as Howard Moore Jr., John  
17 Burris, Jim Chanin, John Huston Scott, and others, in bringing these civil rights cases, I  
18 endeavor to not only zealously represent and prosecute my clients' claims for the intended  
19 relief, but also to make qualitative and systemic changes though the legal system to  
20 obviate and preclude the recurrence of the conduct resulting in the violation of my clients'  
21 civil rights; to assist the Court and police departments in implementing substantive and  
22 procedural changes to improve police policies, practices, training and supervision; and to  
23 seek help from the Court to make the Constitutional protections of civil rights the  
24 paramount mandate of professional policing services to our communities.

25       5. This case reflects an ongoing pattern and practice and policies that are analogous to  
26 the *de facto* Jim Crow laws that I have challenged since I was sixteen years old in my  
27 home town of Selma, Alabama when then Sheriff Jim Clark imposed the unconstitutional

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1 discriminatory laws with the full force of law enforcement. The evidence in the *Bey* case  
 2 shows that for the last twelve years, since August 19, 2005, 63 days after the attempted  
 3 murder of John Bey, the Oakland Police Department has discriminatorily failed to  
 4 investigate crimes against the Bey brothers because they are Black Muslims, violating  
 5 their constitutional rights guaranteed by the First and Fourteenth Amendments of the U.S.  
 6 Constitution.

7 In this spirit, my office, The Law Offices of Bonner & Bonner, substituted into this  
 8 action in August 2016, replacing the Plaintiffs who had been In Pro Per from the inception  
 9 of this case on April 9, 2014.

10 **This is a 42 U.S.C. §1983 Case with the following legal issues**

11 7. This case is brought pursuant to 42 U.S.C. §1983 for violation of Plaintiffs'  
 12 Constitutional rights and involves the following Disputed Issues of Fact:

13 8. Whether Defendant City of Oakland OPD violated Plaintiffs' First Amendment  
 14 Right of Freedom of Religion; and

15 9. Whether Defendant City of Oakland OPD violated Plaintiffs Fourteenth  
 16 Amendment Right of Equal Protection under the law based on religious and racial  
 17 discrimination against them as Black Muslims.

18 **Disputed Issues of Law:**

19 10. The major disputed issues of Law were addressed by the Court in Defendants'  
 20 Fed. R. 12 (6) Motion to dismiss the Plaintiffs' TAC. The Court found:

21 11. "Defendant argues that Plaintiffs' and the Occupy Oakland complainants'  
 22 investigations are not similarly situated because the differences described above-the court  
 23 order and the factual circumstances-make clear that they are not identical. But *Purze* was a  
 24 summary judgment case, not a pleadings case. Moreover, *Purze* involved a "class of one"  
 25 Equal Protection theory, not a classification theory as here, and "class of one"  
 26 discrimination involves more strict enforcement of the similarly-situated requirement. See  
 27 *Warkmtille v. Soria*, --- F. Supp. 3d.... , No. 1: 13-cv- 01550-MJS, 2016 WI. 259108, at

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\*18 (E.D. Cal. Jan. 21, 2016) (citing *JDC Mgmt., UC v. Reich*, 644 F. Supp. 2d 905, 926 (W.D. Ivlich 2009»). Put simply, *Purze* does not compel the conclusion that a plaintiff must allege that two sets of internal affairs investigations into officer misconduct must complain of identical issues and be subject to identical constraints in order to be similarly situated for the purposes of surviving a motion to dismiss.” *Purze v. Village of Willthrop Harbor*, 286 F.3d 452 (7th Cir. 2002) (P-24 Order Re: Motion To Dismiss TAC)

12. My review of the evidence and record in this case shows the following:

Defendant Oakland Police Department (“OPD”) failed to protect Plaintiffs Ali Saleem Bey and John Muhammad Bey by failing to investigate a shooting ambush and other reported crimes against Mr. John Bey.

13. The Bey Brothers have been begging the OPD for investigation and protection, as they were living in desperate fear for their lives as well as the lives of their wives, children, parents and loved ones. OPD deliberately and concertedly ignored their pleas for investigations of murder, assaults and threats. OPD’s pattern and practice of failure to investigate is motivated by animosity and hatred against the Bey Brothers because they are members of the Black Muslim faith.

14. Plaintiffs Ali Saleem Bey and John Muhammad Bey assert in this action against the City of Oakland ("Defendant") in their Third Amended Complaint ("TAC "), violations of their constitutional rights, including their First Amendment Right of Freedom of Religion and Fourteenth Amendment Right of Equal Protection. The Plaintiffs contend that the Oakland Police Department (“OPD”) failed to adequately investigate Plaintiffs' internal affairs complaints due to racial and religious discrimination against Plaintiffs as members of the Black Muslim community.

15. Because the OPD continued to fail to investigate the Bey Brothers’ complaints and failed to provide protection against known hostile group of young criminals, who were supported, aided and given admitted “special treatment” by members of OPD, Mr. Saleem Bey applied for a Conceal and Carry Permit to OPD. In his application he detailed the

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1 threats to the lives of the Beys personally and to their families. OPD denied the application  
 2 of a Conceal and Carry Permit. At the same time, OPD allowed and ordered one of its  
 3 officers, OPD Sgt. Derwin Longmire, to be embedded with the criminal element,  
 4 knowingly and repeatedly permitting these young criminals to have access to illegal high-  
 5 powered, military grade, AK 47 type assault automatic weapons. This police practice is  
 6 referred to by the U.S. Department Of Justice as "Gun Walking".

7 16. In 2007, 2011, and 2013, the Beys filed complaints against OPD, charging that  
 8 OPD was failing to provide them with protection by failing to investigate their complaints  
 9 against particular OPD officers.

10 17. On March 18, 2014, OPD issued a letter indicating that it had completed its  
 11 investigation into the IAD 13-1062, opened on July 23, 2013 by the Office of Compliance  
 12 Director, Mr. Thomas Frazier. The Internal Affairs Complaint made the following  
 13 investigative findings on Plaintiffs' allegations:

14 Performance of Duty - The complainants alleged that there was a systematic failure  
 15 on the part of the Oakland Police Department during the investigation of the murder  
 16 of Waajid Bey and the attempted murder of John Bey as it relates to the follow-up  
 17 criminal investigation. The investigation disclosed sufficient evidence to determine  
 18 that the alleged conduct did occur. *A finding of 'Sustained' has been determined.*  
 19 This finding is applied to the Oakland Police Department, as the individual Subject  
 Officers and their immediate supervisor are no longer employed by the O.P.D. (P-7  
 Order Re: Motion To Dismiss TAC) [Emphasis Added]

#### 20 STATEMENT OF FACTS

21 18. The Statement of Facts in Plaintiff John Bey's Declaration is incorporated herein as  
 22 though fully set forth herein.

#### 23 URGENT NEED FOR INDEPENDENT INVESTIGATOR

24 19. The facts of this case show an urgent need of Court intervention for the Court  
 25 Appointment of an Independent Investigator.

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1 20. On August 19, 2016, during the Court-ordered Settlement Conference before Judge  
2 James, I had a conservation with Ms. Kim Bliss, one of the City of Oakland Attorneys, and  
3 asked her if the City would stipulate to an “Independent Investigator” approved by the  
4 Court, like in the Occupy case, as had been repeatedly requested by Plaintiffs. Ms. Bliss  
5 declined to so stipulate.

6 21. Since I first began representing John and Saleem Bey in August 2016, I have spent  
7 a considerable amount of time with them at my office and in the home of Saleem Bey. I  
8 have observed the effect on them mentally as a result of the discriminatory denial of an  
9 investigation of the crimes perpetrated against them, including the attempted murder of  
10 John and the murder of their dear friend and religious brother Waajid Bey. I have observed  
11 in each of them severe mental and emotional distress, including classic symptoms of Post  
12 Traumatic Stress Disorder (“PTSD”), which I recognize from my 39 years of representing  
13 plaintiffs with such symptoms.

14 22. Based on my observations and their reports to me about the suffering they are  
15 experiencing, and that of their wives, children close family members, directly resulting  
16 from the disparate treatment they have received over the last almost 13 years since the  
17 attempted murder of John, I can attest that they are in desperate need of relief that only this  
18 Court can provide—an Independent Investigator of the crimes against them and of their  
19 IAD complaints. OPD conduct is the classic insult to injury: OPD failed to investigate the  
20 crimes against the Bey Brothers, and then failed to investigate their IAD complaints  
21 against OPD for failing to investigate the crimes. The evidence is weighted beyond the  
22 required preponderance that OPD’s disparate treatment is motivated by a long history of  
23 animus against the Bey Brothers because of their religious faith and race, their  
24 classification as “Black Muslim”. This injustice is toxic to their spirit as human beings,  
25 daily eating at their souls like the toxic Drano eats a clogged drain. This is wrong. This is a  
26 violation of the Constitution. John and Saleem Bey need the help of this Court.

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23. All of the exhibits attached to the Declaration of John Bey are originals, or true and correct copies of originals, and were obtained through the Discovery, the FOIA and investigations.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct, except as to those matters stated on information and belief, and as to those matters, I believe them to be true.

This Declaration was executed on February 9, 2018 at Sausalito, CA. 94965

/S/Charles A. Bonner  
Charles A. Bonner